

# MINUTES

## Agricultural Land Assessment Implementation and Oversight Advisory Task Force



Senator Larry Tidemann, Chair  
Representative Larry Rhoden, Vice Chair

**Third Meeting, 2018 Interim  
Tuesday, November 13, 2018**

**413 – State Capitol Building  
Pierre, SD**

The second interim meeting of the 2018 Agricultural Land Assessment Implementation and Oversight Advisory Task Force was called to order by Senator Larry Tidemann, Chair at 10:04 a.m. (CDT), on Tuesday, November 13, 2018.

A quorum was present with the following members answering roll call: Senators Gary Cammack, Jason Frerichs (via phone), Craig Kennedy, and Larry Tidemann (Chair); Representative Steven McCleerey; and public members Mr. Trevor Cramer, Mr. Kyle Helseth, Mr. David Owen, and Mr. Mike Wiese.

Staff members present included Amanda Jacobs, Senior Research Analyst; Jason Simmons, Principal Fiscal and Program Analyst; and Rachael Person, Senior Legislative Secretary.

*Note: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was web cast live. The archived web cast is available at the LRC website at [sdlegislature.gov](http://sdlegislature.gov).*

### **Approval of Minutes**

**A motion was made by Senator Gary Cammack, seconded by Mr. Mike Wiese, to approve the minutes of the Agricultural Land Assessment Implementation and Oversight Advisory Task Force meeting held on Tuesday, July 10, 2018. Motion prevailed on a voice vote.**

### **Opening Remarks**

Senator Larry Tidemann informed the task force of the decision made by Representative Larry Rhoden and Mr. Mike McCaulley to resign from the task force due to their positions on the transition team for Governor-elect Kristi Noem. In the absence of Representative Rhoden, Senator Tidemann asked Senator Gary Cammack to be the Vice Chair of the task force. He then invited Representative-elect Kirk Chaffee, who was present in the audience, to sit with them and be involved in the discussion.

Senator Tidemann pointed out that he was glad to have the members who were present as this second meeting of the task force was an important one with a lot of information to discuss. Two years ago, the task force asked South Dakota State University (SDSU) to look at the productivity model and soil ratings and Senator Tidemann welcomed Dr. Elliott to come forward and present the results of the two-year study.

### **Progress Report on the Soil Ratings Study**

**Dr. Matthew Elliott, Economics Department, SDSU,** gave a quick background on the study stating the research study was funded in the 2016 legislative session with the special appropriation bill HB 1007. Dr. Elliott stated his team had two objectives to look at for improving ag land property assessments throughout South Dakota. First and

foremost was determining the highest and best use for each soil map unit as crop land or non-cropland, and the second was to determine the relative productivity of a soil map unit relative to other soils in the county with similar best use. He highlighted that most probable use is about trying to identify what would be the most likely bid and the use type behind that bid on property with a certain soil if that property came up for auction. Highest and best use has a similar definition but is more driven toward what is the highest economic value or net income return that can be achieved under each use.

The research was focused on the highest and best use determination, and explored the current method, the most probable use method, and an actual use method. One of the goals was to keep the analysis largely similar to the current method but look at what would result if the highest and best use determination was changed from how it is currently done. Dr. Elliott then broke down the three methods individually in greater detail ([Document 1](#)).

Dr. Elliott stated his team put their findings on a website that allows viewers to delve deeper into the research interactively, but most importantly, see the impacts at a state level of a current use method, a most probable use method, or an actual use method. The website address is listed on the first page of his presentation ([Document 1](#)). From there he touched on some of the changes that could be seen across the state with each method if the state shifts to the expected change in ag-land assessments. Dr. Elliott pointed out some data issues and implementation challenges that arise if implementation to a most probable use method occurs; one of the most important being that eleven counties in South Dakota do not currently have a GIS system to help with implementation or creating accurate GIS coordinate parcel maps.

Dr. Elliott concluded that the research demonstrates the new methods are attainable and created a consistent model of methodology that is consistent with the definitions by the appraisal institute for finding highest and best use and is consistent with standards for developing a mass appraisal model and standards for coming up with the highest and best use supportable and replicable determination method. He recommends adding additional data and altering the method that determines highest and best use and that the data captures dimensions such as financial feasibility and current use patterns such as probable use that are not considered by the Natural Resources Conservation Service (NRCS). The recommendations would require changes to current statute. 10-6-33.32 and 10-6-33.7, as they are currently written, put constraints on adding data and altering the method from the land capability classification in certain ways. Without a change in these statutes Dr. Elliott said the Department of Revenue could not implement his team's recommendations into the current policy.

Mr. Mike Wiese pointed out that Dr. Elliott mentioned some consideration on pieces of property at the point of sale that may be marginal and could go either way depending on percentages, and asked Dr. Elliott how this impacts part of the final analysis. Dr. Elliott replied the website has the probabilities of crop land, so it can be seen where some of those areas of uncertainty lie and by providing the data and the spatial color coding over the satellite imagery they hope to highlight those areas where a determination should be made. Mr. Wiese commented that if the switch to that method is made, it is important to have a clear understanding that there are going to be higher expectations as well as a need for support for the fact that assessors are going to be expected to use their expertise and discretion and will need some guidance as well as being supported in using their judgement to make determinations in those areas.

Senator Cammack mentioned the amount of dependency on machine learning to put the model together and asked Dr. Elliott his confidence level on the process. Dr. Elliott informed the task force that he has high confidence in the machine learning process and that it provides much more flexibility and creates more reasonable probability estimates.

Mr. Trevor Cramer remarked that the most probable use methodology could be implemented into the Table 1's and 2's but it would be necessary to get to GIS level to make an actual use change in every office. Some counties

do not have the tools necessary to make that shift regardless of whether or not it is the right way, or the wrong way and the job of the task force was to find the best way, not the easiest way.

Senator Tidemann turned the attention to the handouts prepared by Dr. Elliott and how they describe a lot of the information Dr. Elliott discussed, and then asked Mr. Michael Houdyshell to come forward and speak about the Department of Revenue's perspective on the data.

### **Discussion on the Data**

**Mr. Michael Houdyshell, Department of Revenue**, introduced Leslie Coyle who has moved into his position as the Director of the Division of Property and Special Taxes. After Ms. Coyle gave a brief introduction, Mr. Houdyshell stated the research was a much-needed exercise. The soil rating system in South Dakota has essentially been the same for the last three decades, so it was time to come up with a more scientific, more sound, and more current method of finding the soil ratings which are so important in the ag land assessment system. Some implementation challenges will arise depending on which way the task force and the Legislature decides to go forward. Mr. Houdyshell reminded the task force there were eleven counties currently without any GIS capabilities and that is something everyone needs to remain cognizant of.

Representative-elect Kirk Chaffee asked if the counties without GIS would have to make adjustments on a per parcel basis or if they would have a new Table 1 to work with if the most probable use scenario was adopted. Mr. Houdyshell said that if the recommendations from SDSU were accepted and incorporated the counties would have to implement the new tables being generated by the research. For the counties without GIS he is unsure of how that will happen at this time. Eventually the counties are going to have to adopt the most current soil surveys because some of the counties are using old soil surveys, so whether Dr. Elliott's research is used, or the current methodology continues, all the counties will need to have their tables updated.

Senator Tidemann asked Ms. Leslie Coyle what the implementation time frame would look like if the most probable use scenario were to pass as legislation. Ms. Coyle responded it would be on the Department of Revenue to help the counties that do not have GIS systems implement them and train them, which is what the Department was responsible for when the productivity system was implemented. As a department, they concluded it would take several years for the counties without GIS systems.

Mr. Trevor Cramer remarked when his county went on GIS it was a two to three-year period to get everything drawn up and put into place, so he would say that time frame would be accurate assuming everything was lined up and there was enough man power to put everything into place.

Senator Tidemann inquired if some of the other fifty-five counties who already have GIS systems could start implementing it through a pilot program. Mr. Houdyshell suggested having some pilot counties to implement the process would be useful and could provide the data needed to look at the impacts in greater detail so actual data would be available and not just estimates.

### **Discussion on Draft Legislation**

**Amanda Jacobs, Senior Research Analyst, Legislative Research Council**, presented three draft bills for the upcoming legislative session. The first draft ([Document 2](#)) is an act to provide for the assessment of certain agricultural land as non-cropland. The draft was previously HB 1202 in 2010 and has some minor changes. The first section concerns ag-land that has been seeded to grass for at least ten years, and the second section defines a penalty be given if a person were to misrepresent the facts as to the use of the land. The second draft ([Document 3](#)) amends section 10-6-33.32, stating the categories of agricultural land shall reflect the actual use of

the agriculture land. The third draft ([Document 4](#)) is based on recommendations from Dr. Elliott and the Department of Revenue and would allow SDSU to provide each county with data and information on soil classification.

Senator Craig Kennedy voiced concern over drafts 1 and 2 possibly clashing with the South Dakota constitution and asked that someone from the Attorney General's office look at the drafts to make sure a potential issue will not arise. He also inquired after section 3 of proposed bill 3 and asked if it was the intention to eliminate the ability of the directors of equalization and the county boards of equalization to use their discretion in determining valuation and also eliminating direction to them as to what they should consider if they're going to grant a deviation from the formula. Mr. Houdyshell said the language was added to provide SDSU with the ability to recommend other factors that are considered in those soil ratings beyond just the NRCS soil classifications.

### **Public Testimony**

Mr. Jon Jordan, Meade Co., SD, asked for the future consideration of class 1 and 2 crop soils in Meade County be considered crop soils, class 3 be considered variable, and classes 4-8 be considered non-crop soils.

Mr. Bill Kluck, Mud Butte, SD, brought forth an example of the difference in South Dakota taxes versus the surrounding states' taxes using his ranch and a ranch for sale in Montana as a comparison. And cautioned that younger people may be eliminated from moving into ranching if taxes continue to rise.

Ms. Florence Thompson, Caputa, SD, voiced her concern over the statistical design of the computer-generated statistics, stating that the individual farmers and ranchers are the best experts of highest and best use of their ground, and the sales taxes on ag land are causing negative economic development.

Ms. Corrina Erickson, Bison, SD, asked if the Department of Revenue could give a better idea of what she, as a county assessor, would need to quantify adjustments and if the state goes with the most probable use or with actual use, will the adjustments and layers that Dr. Elliott is putting in the models help quantify the adjustments made county wide.

Mr. Houdyshell said if Dr. Elliott's recommendations are put into effect and rolled out to all the counties, he expects a lot of the need for localized adjustments may be mitigated, but it will never eliminate them all together. A process for the Director of Equalization to look at certain soil types or certain parcels in the county and still use the statutory authority will still be needed. However, he is hopeful Dr. Elliott's research will help with already addressing those things within the formula to a great extent.

Dr. Elliott mentioned his support of the pilot phase discussion as his team has only been able to give an abstract picture of a change and there are a lot of details which will need to be worked out during the implementation and how that works with local adjustments and general administration. He assured that his team is willing to help however they can.

Mr. Jeremiah Murphy, SD Stockgrowers Association, Rapid City, SD, thanked Dr. Elliott and the task force for this study. He then offered comments on the draft legislation stating that in a general sense the Stockgrowers Association would support the three bills as they are similar to bills they have supported in the past.

Senator Tidemann asked if the Stockgrowers Association would support if the task force were to look at the most probable use on a pilot basis for the counties willing to be part of a trial. Mr. Murphy responded going forward with those counties able to do a pilot would be a good approach.

Mr. Mitch Richter, South Dakota Farmer's Union, Rapid City, SD, echoed Mr. Murphy's statements stating they were similar to what the South Dakota Farmer's Union would have. He mentioned concern over the lack of education dollars and keeping a balance in all the categories but stated the committee and SDSU have done a great job providing data that is very important to the decision-making process.

Mr. Mike Wiese presented information on Brown County to provide some perspective and the experience Brown county has had ([Documents 5-8](#)).

### **Decisions on Draft Legislation**

Mr. Kyle Helseth commented on draft legislation #3, stating it has been the seventh major change in the evaluation of agricultural land in the state of South Dakota and one of the best.

**A motion was made by Mr. David Owen, seconded by Representative McCleerey, to submit Draft #3 as committee legislation. The motion prevailed on a unanimous vote.**

**A motion was made by Senator Cammack, seconded by Senator Frerichs, to amend draft #1 and delete all six lines of section 2. The motion prevailed on a roll call vote with 7 voting AYE and 2 voting NAY. Voting AYE: Frerichs, McCleerey, Cramer, Owen, Wiese, Cammack, Tidemann. Voting NAY: Kennedy, Helseth.**

**A motion was made by Mr. Mike Wiese, seconded by Representative McCleerey, that the task force recommend a pilot program for 10-15 counties willing to go to full assessed valuation. The motion prevailed on a unanimous vote.**

As there was no motion made on draft legislation #2, Senator Tidemann declared that it would not move forward.

### **Adjournment**

**A motion to adjourn was made by Representative McCleerey, seconded by Senator Cammack. The motion prevailed by a unanimous vote.**

The meeting adjourned at 2:33 p.m.